

Chapter 246, P.L. 2003

(Approved January 12, 2004)

[Second Reprint]

ASSEMBLY, No. 3743

**STATE OF NEW
JERSEY**

210th LEGISLATURE

INTRODUCED JUNE 5, 2003

Sponsored by:

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District 37 (Bergen)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

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District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblymen Green, Hackett, Caraballo, Eagler,

Senators Codey and Baer

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SYNOPSIS

"Domestic Partnership Act"; establishes domestic partnerships.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 11, 2003, with amendments.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHH committee amendments adopted December 11, 2003.

² Assembly AAP committee amendments adopted December 11, 2003.

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(Sponsorship Updated As Of: 1/9/2004)

AN ACT establishing the rights and responsibilities of domestic partners,
and revising parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of
New Jersey:*

1. (New section) This act shall be known and may be cited as the
¹["Family Equality"] "Domestic Partnership"¹ Act."

2. (New section) The Legislature finds and declares that:

a. There are a significant number of individuals in this State who
choose to live together in important personal, emotional and economic
committed relationships with another individual;

b. These familial relationships, which are known as domestic
partnerships, assist the State by their establishment of a private network
of support for the financial, physical and emotional health of their
participants;

c. Because of the material and other support that these familial
relationships provide to their participants, the Legislature believes that
these mutually supportive relationships should be formally recognized by
statute, and that certain rights and benefits should be made available to
individuals participating in them² [;

d. The rights of domestic partners with regard to], including:
statutory protection against various forms of discrimination against
domestic partners; certain visitation and decision-making rights in a
health care setting; and certain tax-related benefits; and, in some cases,²
health and pension benefits ² [should be] that are provided in² the same
²manner² as ²for² spouses²;

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d. All persons in domestic partnerships should be entitled to certain rights and benefits that are accorded to married couples under the laws of New Jersey, including: statutory protection through the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) against various forms of discrimination based on domestic partnership status, such as employment, housing and credit discrimination; visitation rights for a hospitalized domestic partner and the right to make medical or legal decisions for an incapacitated partner; and an additional exemption from the personal income tax and the transfer inheritance tax on the same basis as a spouse. The need for all persons who are in domestic partnerships, regardless of their sex, to have access to these rights and benefits is paramount in view of their essential relationship to any reasonable conception of basic human dignity and autonomy, and the extent to which they will play an integral role in enabling these persons to enjoy their familial relationships as domestic partners and to cope with adversity when a medical emergency arises that affects a domestic partnership, as was painfully but graphically illustrated on a large scale in the aftermath of the tragic events that befell the people of our State and region on September 11, 2001;

e. The Legislature, however, discerns a clear and rational basis for making certain health and pension benefits available to dependent domestic partners only in the case of domestic partnerships in which both persons are of the same sex and are therefore unable to enter into a marriage with each other that is recognized by New Jersey law, unlike persons of the opposite sex who are in a domestic partnership but have the right to enter into a marriage that is recognized by State law and thereby have access to these health and pension benefits²; and

²[e.] f.² Therefore, it is the public policy of this State to hereby establish and define the rights and responsibilities of domestic partners.

3. (New section) As used in sections 1 through 9 of P.L. , c. (C.)(pending before the Legislature as this bill) and in R.S.26:8-1 et seq.:

"Affidavit of Domestic Partnership" means an affidavit that sets forth each party's name and age, the parties' common mailing address, and a

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statement that, at the time the affidavit is signed, both parties meet the requirements of this act for entering into a domestic partnership and wish to enter into a domestic partnership with each other.

"Basic living expenses" means the cost of basic food and shelter, and any other cost, including, but not limited to, the cost of health care, if some or all of the cost is paid as a benefit because a person is another person's domestic partner.

"Certificate of Domestic Partnership" means a certificate that includes: the full names of the domestic partners, a statement that the two individuals are members of a registered domestic partnership recognized by the State of New Jersey, the date that the domestic partnership was entered into, and a statement that the partners are entitled to all the rights, privileges and responsibilities accorded to domestic partners under the law. The certificate shall bear the seal of the State of New Jersey.

"Commissioner" means the Commissioner of Health and Senior Services.

"Domestic partner" or "partner" means a person who is in a relationship that satisfies the definition of a domestic partnership as set forth in this act.

"Have a common residence" means that two persons share the same place to live in this State, or share the same place to live in another jurisdiction when at least one of the persons is a member of a State-administered retirement system, regardless of whether or not: the legal right to possess the place is in both of their names; one or both persons have additional places to live; or one person temporarily leaves the shared place of residence to reside elsewhere, on either a short-term or long-term basis, for reasons that include, but are not limited to, medical care, incarceration, education, a sabbatical or employment, but intends to return to the shared place of residence.

"Jointly responsible" means that each domestic partner agrees to provide for the other partner's basic living expenses if the other partner is unable to provide for himself.

"Notice of Rights and Obligations of Domestic Partners" means a form that advises domestic partners, or persons seeking to become

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domestic partners, of the procedural requirements for establishing, maintaining, and terminating a domestic partnership, and includes information about the rights and responsibilities of the partners.

4. (New section) a. Two persons who desire to become domestic partners and meet the requirements of subsection b. of this section may execute and file an Affidavit of Domestic Partnership with the local registrar upon payment of a fee, in an amount to be determined by the commissioner, which shall be deposited in the General Fund. Each person shall receive a copy of the affidavit marked "filed."

b. A domestic partnership shall be established when all of the following requirements are met:

(1) Both persons have a common residence ¹and are otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property, which shall be demonstrated by at least one of the following:

(a) a joint deed, mortgage agreement or lease;

(b) a joint bank account;

(c) designation of one of the persons as a primary beneficiary in the other person's will;

(d) designation of one of the persons as a primary beneficiary in the other person's life insurance policy or retirement plan; or

(e) joint ownership of a motor vehicle¹;

(2) Both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership;

(3) Neither person is ¹[married]¹ in a marriage recognized by New Jersey law or a member of another domestic partnership;

(4) ¹Neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity;

(5) Both persons are of the same sex and therefore unable to enter into a marriage with each other that is recognized by New Jersey law ², except that two persons who are each 62 years of age or older and not of the same sex may establish a domestic partnership if they meet the requirements set forth in this section²;

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(6)¹ Both persons have chosen to share each other's lives in a committed relationship of mutual caring;

¹~~[(5)]~~ (7)¹ Both persons are at least 18 years of age;

¹~~[(6)]~~ (8)¹ Both persons file jointly an Affidavit of Domestic Partnership; and

¹~~[(7)]~~ (9)¹ Neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current Affidavit of Domestic Partnership, except that this prohibition shall not apply if one of the partners died; and, in all cases in which a person registered a prior domestic partnership, the domestic partnership shall have been terminated in accordance with the provisions of section 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. A person who executes an Affidavit of Domestic Partnership in violation of the provisions of subsection b. of this section shall be liable to a civil penalty in an amount not to exceed \$1,000. The penalty shall be sued for and collected pursuant to the ¹~~["Penalty Enforcement Law of 1999"]~~ "Penalty Enforcement Law of 1999," P.L.1999, c.274¹ (C.2A:58-10 et seq.).

5. (New section) a. A former domestic partner who has given a copy of the Certificate of Domestic Partnership to any third party to qualify for any benefit or right and whose receipt of that benefit or enjoyment of that right has not otherwise terminated, shall, upon termination of the domestic partnership, give or send to the third party, at the last known address of the third party, written notification that the domestic partnership has been terminated. A third party that suffers a loss as a result of failure by a domestic partner to provide this notice shall be entitled to seek recovery from the partner who was obligated to send the notice for any actual loss resulting thereby.

b. Failure to provide notice to a third party, as required pursuant to this section, shall not delay or prevent the termination of the domestic partnership.

6. (New section) a. The obligations that two people have to each

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other as a result of creating a domestic partnership shall be limited to the provisions of this act, and those provisions shall not diminish any right granted under any other provision of law.

b. Upon the termination of a domestic partnership, the domestic partners, from that time forward, shall incur none of the obligations to each other as domestic partners that are created by this or any other act.

c. A domestic partnership, civil union or reciprocal beneficiary relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the partnership was created, shall be valid in this State.

d. Any health care or social services provider, employer, operator of a place of public accommodation, property owner or administrator, or other individual or entity may treat a person as a member of a domestic partnership, notwithstanding the absence of an Affidavit of Domestic Partnership filed pursuant to this act.

e. Domestic partners may modify the rights and obligations to each other that are granted by this act in any valid contract between themselves, except for the requirements for a domestic partnership as set forth in section 4 of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹.

f. Two adults who have not filed an Affidavit of Domestic Partnership shall be treated as domestic partners in an emergency medical situation ¹for the purposes of allowing one adult to accompany the other adult who is ill or injured while the latter is being transported to a hospital, or to visit the other adult who is a hospital patient, on the same basis as a member of the latter's immediate family,¹ if both persons, or one of the persons in the event that the other person is legally or medically incapacitated, advise the emergency care provider that the two persons have met the other requirements for establishing a domestic partnership as set forth in section 4 of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill); however, the provisions of this section shall not be construed to permit the two adults to be treated as domestic partners for any other purpose as provided in P.L. , c. (C.)(pending before the Legislature as this bill) prior to their having filed an Affidavit of

Domestic Partnership¹.

g. A domestic partner shall not be liable for the debts of the other partner contracted before establishment of the domestic partnership, or contracted by the other partner in his own name during the domestic partnership. The partner who contracts for the debt in his own name shall be liable to be sued separately in his own name, and any property belonging to that partner shall be liable to satisfy that debt in the same manner as if the partner had not entered into a domestic partnership.

7. (New section) a. The commissioner shall cause to be prepared, in such a manner as the commissioner determines appropriate:

(1) blank forms, in quadruplicate, of Affidavits of Domestic Partnership and Certificates of Domestic Partnership corresponding to the requirements of this act; and

(2) copies of the Notice of the Rights and Obligations of Domestic Partners.

b. The commissioner shall ensure that these forms and notices, along with such sections of the laws concerning domestic partnership and explanations thereof as the commissioner may deem useful to persons having duties to recognize domestic partners under those laws, are printed and supplied to each local registrar, and made available to the public upon request.

8. (New section) a. The local registrar shall:

(1) stamp each completed Affidavit of Domestic Partnership received with the date of its receipt and the name of the registration district in which it is filed; and

(2) immediately provide two copies of the stamped Affidavit of Domestic Partnership to the person who files that document.

b. Upon the filing of an Affidavit of Domestic Partnership and payment of the appropriate filing fee, the local registrar shall immediately complete a Certificate of Domestic Partnership with the domestic partners' relevant information and the date that the domestic partnership was established. The local registrar shall then issue to the domestic

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partners two copies of the certificate and two copies of the Notice of the Rights and Obligations of Domestic Partners. Copies of the Certificate of Domestic Partnership shall be prepared and recorded in the local registrar's records and with the State registrar.

c. Each local registrar shall, on or before the 10th day of each calendar month, or sooner if requested by the Department of Health and Senior Services, transmit to the State registrar the original of all the Affidavits of Domestic Partnership and Certificates of Domestic Partnership received or prepared by the local registrar for the preceding month.

9. (New section) The State registrar shall cause all Affidavits of Domestic Partnership and Certificates of Domestic Partnership received to be alphabetically indexed by the surname of one of the partners, and shall establish a cross-referencing system to allow the records to be identified by the surname of the second partner. The State registrar shall also cause to be transcribed or otherwise recorded from the certificates any of the vital facts appearing thereon as the commissioner may deem necessary or useful.

10. (New section) ¹a. (1)¹ The Superior Court shall have jurisdiction over all proceedings relating to the termination of a domestic partnership established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), including the division and distribution of jointly held property. ¹[The termination shall follow the same procedures, and the parties shall be subject to the same substantive rights and obligations, as are involved in an action for divorce pursuant to N.J.S.2A:34-1 et seq.] The fees for filing an action or proceeding for the termination of a domestic partnership shall be the same as those for filing an action or proceeding for divorce pursuant to N.J.S.22A:2-12.

(2) The termination of a domestic partnership may be adjudged for the following causes:

(a) voluntary sexual intercourse between a person who is in a domestic partnership and an individual other than the person's domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the

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Legislature as this bill):

(b) willful and continued desertion for a period of 12 or more consecutive months, which may be established by satisfactory proof that the parties have ceased to cohabit as domestic partners;

(c) extreme cruelty, which is defined as including any physical or mental cruelty that endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue to cohabit with the defendant; except that no complaint for termination shall be filed until after three months from the date of the last act of cruelty complained of in the complaint, but this provision shall not be held to apply to any counterclaim;

(d) separation, provided that the domestic partners have lived separate and apart in different habitations for a period of at least 18 or more consecutive months and there is no reasonable prospect of reconciliation; and provided further that, after the 18-month period, there shall be a presumption that there is no reasonable prospect of reconciliation;

(e) voluntarily induced addiction or habituation to any narcotic drug, as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c. 226 (C. 24:21-2) or the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., or habitual drunkenness for a period of 12 or more consecutive months subsequent to establishment of the domestic partnership and next preceding the filing of the complaint;

(f) institutionalization for mental illness for a period of 24 or more consecutive months subsequent to establishment of the domestic partnership and next preceding the filing of the complaint; or

(g) imprisonment of the defendant for 18 or more consecutive months after establishment of the domestic partnership, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following the imprisonment.

(3) In all such proceedings, the court shall in no event be required to effect an equitable distribution of property, either real or personal, which was legally and beneficially acquired by both domestic partners or either domestic partner during the domestic partnership.

(4) The court shall notify the State registrar of the termination of a

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domestic partnership pursuant to this subsection.

b. ²In the case of two persons who are each 62 years of age or older and not of the same sex and have established a domestic partnership pursuant to section 4 of P.L. , c. (C.)(pending before the Legislature as this bill), the domestic partnership shall be deemed terminated if the two persons enter into a marriage with each other that is recognized by New Jersey law .

c. ² The State registrar shall revise the records of domestic partnership provided for in section 9 of P.L. , c. (C.)(pending before the Legislature as this bill) to reflect the termination of a domestic partnership pursuant to this section. ¹

¹[11. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

5. As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

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f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational

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institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence or the household of the owner's family at the time of such rental; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence or the household of the owner's or occupant's family at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving

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preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to

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lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Handicapped" means suffering from physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Handicapped shall also mean suffering from AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of the blind, handicapped or deaf as reputable and

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competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of

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hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to a handicapped person's requirements including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the

same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the foster parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State or federal program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State or federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of March 12, 1989 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this

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subsection; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

nn. "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

oo. "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.

pp. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

qq. "Domestic partnership" means a domestic partnership established pursuant to section 4 of P.L. , c. (C.)(pending before the Legislature as this bill).

(cf: P.L.1996, c.126, s.4)]¹

¹[12. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation, genetic information, sex or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms,

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conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least \$27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the

implementation thereof.

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation or sex or liability of any applicant for employment for service in the Armed Forces of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under

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this act, or to attempt to do so.

f. (1) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation or nationality of such person, or that the patronage or custom thereof of any person of any particular race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

(2) Notwithstanding the definition of "public accommodation " as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5), for any

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owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation or nationality of such person.

In addition to the penalties otherwise provided for a violation of P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S.33:1-12 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, affectional or sexual orientation, familial status, nationality, or source of lawful income used for rental or mortgage payments of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, or source of lawful income used for rental or mortgage payments of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

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(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to any county, State or Federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as

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defined in the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), to any housing for older persons or to any unit in a planned real estate development that is age-restricted and subject to the provisions of the "Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any

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real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to any county, State or Federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as defined in the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), to housing for older persons or to any unit in a planned real estate development that is age-restricted and subject to the provisions of the "Planned Real Estate Development Full Disclosure

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Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information;

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property;

(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To discriminate against any person or group of persons because that person's family includes children under 18 years of age, or to make

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an agreement or mortgage which provides that the agreement or mortgage shall be rendered null and void upon the birth of a child. This paragraph shall not apply to any county, State or Federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as defined in the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), to housing for older persons or to any unit in a planned real estate development that is age-restricted and subject to the provisions of the "Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, nationality, or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex,

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affectional or sexual orientation, marital status, domestic partnership status, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, domestic partnership status, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract, or other document do not otherwise violate the provisions of this subsection.

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n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection n.; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection n.; provided that this subsection n. shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

(cf: P.L.2002, c.82, s.3)]¹

¹11. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with

employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air,

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any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family

dwelling occupied by the owner or occupant as a residence at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for

compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Disability" means physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has

been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard

chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A₂, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived,

presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the foster parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State program); or provided under any federal program that the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

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(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of September 13, 1988 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this subsection; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

nn. "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

oo. "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.

pp. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

qq. "Domestic partnership" means a domestic partnership established pursuant to section 4 of P.L. , c. (C.)(pending before the Legislature as this bill).¹

(cf: P.L.2003, c.180, s.6)

12. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin,

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ancestry, age, marital status, domestic partnership status, affectional or sexual orientation, genetic information, sex, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee

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which equals in the aggregate at least \$27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

¹The provisions of subsections a. and b. of section 57 of P.L. , c. (C.)(pending before the Legislature as this bill)², and the provisions of section 58 of P.L. , c. (C.)(pending before the Legislature as this bill), ² shall not be deemed to be an unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).¹

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the implementation thereof.

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation, disability or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to

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race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation, disability, nationality or sex or liability of any applicant for employment for service in the Armed Forces of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. (1) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, disability or nationality of such person, or that the patronage or custom thereof of any person of any particular race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, disability or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor,

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superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

(2) Notwithstanding the definition of "public accommodation" as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, disability or nationality of such person.

In addition to the penalties otherwise provided for a violation of P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S.33:1-12 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or

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sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments;

(2) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room,

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apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, domestic partnership status,

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familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to

make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution involved in the making or purchasing of any loan or extension of credit, for whatever purpose, whether secured by residential real estate or not, including but not limited to financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, disability, familial status or nationality, in the granting, withholding, extending, modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or purchase thereof or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, disability, familial status or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information;

(3) (Deleted by amendment, P.L.2003, c.180).

(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To discriminate against any person or group of persons because

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that person's family includes children under 18 years of age, or to make an agreement or mortgage which provides that the agreement or mortgage shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers,

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superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, domestic partnership status, disability, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract, or other document do not otherwise violate the provisions of this subsection.

n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting

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with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection; provided that this subsection shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

o. For any multiple listing service, real estate brokers' organization or other service, organization or facility related to the business of selling or renting dwellings to deny any person access to or membership or participation in such organization, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability or nationality.¹

(cf: P.L.2003, c.180, s.12)

13. (New section) a. A health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall allow a patient's domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), the children of the patient's domestic partner, and the domestic partner of the patient's parent or child to visit, unless one of the following conditions is met:

(1) No visitors are allowed;

(2) The health care facility reasonably determines that the presence of a particular visitor would endanger the health or safety of a patient, a member of the staff of the facility, or another visitor to the facility, or would significantly disrupt the operations of the facility; or

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(3) The patient has indicated to health care facility staff that the patient does not want the person to visit.

b. The provisions of subsection a. of this section shall not be construed as prohibiting a health care facility from otherwise establishing reasonable restrictions upon visitations, including restrictions upon the hours of visitation and number of visitors.

14. R.S.26:8-1 is amended to read as follows:

26:8-1. As used in this chapter:

"Vital statistics" means statistics concerning [birth] births, deaths, fetal deaths [and], marriages and domestic partnerships established pursuant to P.L. , c. (C.)(pending before the Legislature as this bill).

"Vital records" means the birth, death, fetal death [and], marriage and domestic partnership records from which vital statistics are produced.

"State registrar" means the State registrar of vital statistics; "Local registrar" or "registrar" means the local registrar of vital statistics of any district; and "registration district" or "district" means a registration district as constituted by this article.

"Live birth" or "birth" means the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta attached.

(cf: P.L.1965, c.78, s.32)

15. R.S.26:8-4 is amended to read as follows:

26:8-4. Upon demand of the State registrar in person, by mail, or through the local registrar, every physician, midwife, informant, funeral director, or other person having knowledge of the facts relative to any birth, death, fetal death, [or] marriage or domestic partnership, shall supply such information as he may possess, upon a form provided by the State registrar or upon the original birth, death, fetal death, [or] marriage or domestic partnership certificate.

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(cf: P.L.1965, c.78, s.33)

16. R.S.26:8-17 is amended to read as follows:

26:8-17. The local registrar, immediately upon acceptance of the appointment, shall appoint a deputy to assist in the normal, day-to-day operation of the office and whose duty shall be to act in the registrar's stead in case of absence, disability or death of the registrar. In case of death of the local registrar the deputy shall act as local registrar until a new local registrar has been appointed and qualified.

In addition to a deputy registrar, the local registrar may appoint one or two alternate deputy registrars if the local registrar deems such an appointment to be necessary for the office to function efficiently and to provide quality service to the public. The deputy registrar and alternate deputy registrar shall have the authority to receive birth certificates and death certificates; to issue burial permits, and copies of birth, death, [and] marriage and domestic partnership certificates; to take the oath on marriage license applications; and to issue marriage licenses and register domestic partnerships. The deputy registrar and alternate deputy registrar shall receive instructions from and perform their duties under the direct supervision of the registrar, who shall be the final authority with the responsibility of fulfilling the duties of the local registrar outlined in R.S.26:8-25. The deputy registrar and any alternate deputy registrar shall serve at the pleasure of the local registrar.

(cf: P.L.1995, c.87, s.1)

17. R.S.26:8-23 is amended to read as follows:

26:8-23. The [State department] Department of Health and Senior Services shall have charge of the registration of births, deaths, fetal deaths [and], marriages and domestic partnerships and shall procure the prompt and accurate registration of the same in each registration district and in the department. The department may promulgate any rule or regulation which it deems necessary for the uniform and thorough enforcement of this section.

The department may decline permission to examine any record except

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in the presence of an officer or employee of the department.

(cf: P.L.1965, c.78, s.45)

18. R.S.26:8-24 is amended to read as follows:

R.S.26:8-24. The State registrar shall:

a. Have general supervision throughout the State of the registration of vital records;

b. Have supervisory power over local registrars, deputy local registrars, and subregistrars, in the enforcement of the law relative to the disposal of dead bodies and the registration of vital records;

c. Prepare, print, and supply to all registrars, upon request therefor, all blanks and forms used in registering the records required by said law. No other blanks shall be used than those supplied or approved by the State registrar;

d. Carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory;

e. Arrange, bind, and permanently preserve the certificates of vital records in a systematic manner;

f. Prepare and maintain a comprehensive and continuous index of all vital records registered, the index to be arranged alphabetically;

1. In the case of deaths, by the name of the decedent;

2. In the case of births, by the name of child, if given, and if not, then by the name of father or mother;

3. In the case of marriages, by the surname of the husband and also by the maiden name of the wife;

4. In the case of domestic partnerships, by the surname of each of the partners; and

g. Mark the birth certificate of a missing child when notified by the Missing Persons Unit in the Department of Law and Public Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c).

(cf: P.L.1995, c.395, s.5)

19. R.S.26:8-25 is amended to read as follows:

26:8-25. The local registrar, under the supervision and direction of the

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State registrar, shall:

- a. Strictly and thoroughly enforce the law relative to the disposal of dead bodies and the registration of vital records in his registration district;
- b. Supply blank forms of certificates to such persons as require them;
- c. Supply to every physician, midwife, and funeral director a copy of the law relative to the registration of vital records and the disposal of dead bodies, together with such rules and regulations as may be prepared by the State registrar relative to their enforcement;
- d. Sign his name and insert the date of filing on each certificate of birth, marriage, domestic partnership and death;
- e. Examine each certificate of birth, marriage, domestic partnership or death when presented for record in order to ascertain whether or not it has been made in accordance with law and the instructions of the State registrar; and if [such certificate is] incomplete and unsatisfactory, [he shall] have the same corrected;
- f. At the expense of the municipality make a complete and accurate copy of each birth, marriage, domestic partnership and death certificate registered by him on a form or in a manner prescribed by the State registrar, to be preserved in his office as the local record;
- g. On the tenth day of each month or sooner if requested by the department, transmit to the State registrar all original birth, marriage, domestic partnership and death certificates received by him for the preceding month. If no births, marriages, domestic partnerships or deaths occurred in any month, he shall, on or before the tenth day of the following month, report that fact to the State registrar on a card provided for such purpose;
- h. Make an immediate report to the State registrar of any violation of [this chapter or chapter 6 of this Title (R.S.26:6-1 et seq.), as well as chapter 1 of Title 37 of the Revised Statutes] R.S.26:6-1 et seq., R.S.26:8-1 et seq., or R.S.37:1-1 et seq. coming to his knowledge;
- i. In the case of any birth in his registration district to parents who are residents of another registration district or of the marriage in his registration district of any couple who obtained the marriage license in another registration district, or of the death in his registration district of

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any person who at the time of such death was a resident of another registration district notify the registrar of the other registration district, within five days of such birth, marriage, or death, on forms prescribed by the State registrar. All entries relating to cause of death on the original certificate must be entered on the death form sent to the registrar of the other registration district; and

j. Mark the birth certificate of a missing child born in his registration district when notified by the State registrar pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c).
(cf: P.L.1995, c.395, s.6)

20. R.S.26:8-48 is amended to read as follows:

26:8-48. A certificate of birth, fetal death, marriage, domestic partnership or death heretofore or hereafter filed with the State registrar shall not be altered or changed otherwise than by amendments properly signed, dated and witnessed.
(cf: P.L.1965, c.78, s.65)

21. R.S.26:8-51 is amended to read as follows:

26:8-51. Corrections to marriage or domestic partnership certificates shall be signed by the person who signed the [marriage] certificate or by any other person having personal knowledge of the matters sought to be corrected which other person shall state such matters on his oath.
(cf: P.L.1938, c.174, s.2)

22. R.S.26:8-55 is amended to read as follows:

26:8-55. Any person knowingly submitting a certificate pursuant to this article containing incorrect particulars relating to any birth, marriage, domestic partnership or death shall be subject to a penalty of not more than [five hundred dollars] \$500, which shall be recovered with costs in a summary proceeding in the name of the [state] department.
(cf: R.S.26:8-55)

23. R.S.26:8-60 is amended to read as follows:

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26:8-60. Each local registrar shall be entitled to receive from the proper disbursing officer of the municipality or county the sum of ~~[\$1.00]~~ \$1 for each marriage or domestic partnership certificate properly transmitted to the State Registrar.

In any registration district, the body appointing local registrars may, in lieu of fees, provide that officers performing the above service shall receive a fixed compensation to be determined by such body.
(cf: P.L.1983, c.275, s.15)

24. R.S.26:8-62 is amended to read as follows:

26:8-62. a. The State registrar shall, upon request, supply to any applicant a certification or certified copy of the record of any birth, death, fetal death or marriage[,] registered under the ~~[provision of this chapter]~~ provisions of R.S.26:8-1 et seq., or any domestic partnership registered under the provisions of P.L. , c. (C.)(pending before the Legislature as this bill), for ~~[either]~~ any of which, except as provided by ~~[section 26:8-63 of the Revised Statutes]~~ R.S.26:8-63, ~~[he]~~ the State registrar shall be entitled to ~~[such]~~ a search fee, if any, as is provided by ~~[section 26:8-64 of the Revised Statutes]~~ R.S.26:8-64, to be paid by the applicant.

b. The State registrar shall, upon request, supply to any applicant a certified transcript of any entry contained in the records of the New Jersey State census for which, except as provided by ~~[section 26:8-63 of the Revised Statutes]~~ R.S.26:8-63, he shall be entitled to ~~[such]~~ a search fee as is provided by ~~[section 26:8-64 of the Revised Statutes]~~ R.S.26:8-64, to be paid by the applicant.

(cf: P.L.1965, c.78, s.72)

25. R.S.26:8-63 is amended to read as follows:

26:8-63. The State registrar shall:

a. Furnish a certification or certified copy of a birth, marriage, domestic partnership, fetal death or death certificate without fee in the prosecution of any claim for public pension or for military or naval enlistment purposes; and

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b. Furnish the United States Public Health Service without expense to the State, microfilm or photocopy images of birth, marriage, domestic partnership, fetal death and death certificates without payment of the fees prescribed in this article; and

c. Furnish a certified transcript of any entry in the records of the New Jersey State census without fee for certification in the prosecution of any claim for public pension, for military or naval enlistment purposes; and

d. Furnish without fee upon request for administrative use by any city, State or Federal agency a certified transcript of any New Jersey State census entry, or a certification or certified copy of a birth, death, fetal death [or], marriage or domestic partnership certificate.

(cf: P.L.1965, c.78, s.73)

26. R.S.26:8-64 is amended to read as follows:

26:8-64. a. For any search of the files and records of births, deaths, [or] marriages or domestic partnerships when the correct year only is supplied by the applicant, whether or not a certification or a certified copy is made, the State Registrar shall be entitled to a minimum fee of [\$4.00] \$4, plus a fee of [\$1.00] \$1 for each additional year searched, [said fee to] which fee shall be paid by the applicant, except as provided by [section 26:8-63 of the Revised Statutes] R.S.26:8-63. [Each] The fee for each additional copy [is \$2.00] shall be \$2.

b. For all searches of the New Jersey State census records, except as otherwise provided herein, the State Registrar shall be entitled to a fee of [\$2.00] \$2 for each address searched in any census year.

c. Conduct without fee upon request for administrative use by any city, state, or federal agency, a search for any New Jersey State census entry.

(cf: P.L.1983, c.275, s.17)

27. Section 1 of P.L.1977, c.237 (C.26:2H-32) is amended to read as follows:

1. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Nursing home" means a facility providing therein nursing care to

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sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

b. "Affiliate" means (1) with respect to a partnership, each partner thereof; (2) with respect to a corporation, each officer, director, principal stockholder or controlling person thereof; (3) with respect to a natural person (a) each member of said person's immediate family, (b) each partnership and each partner thereof of which said person or any affiliate of said person is a partner, and (c) each corporation in which said person or any affiliate of said person is an officer, director, principal stockholder or controlling person.

c. "Controlling person" of any corporation, partnership or other entity means any person who has the ability, directly or indirectly, to direct or cause the direction of the management or policies of said corporation, partnership or other entity.

d. "Immediate family" of any person includes each parent, child, spouse, brother, sister, first cousin, aunt and uncle of such person, whether such relationship arises by birth, marriage or adoption, as well as the domestic partner of that person as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill) and the domestic partner's parent and adult child.

e. "Principal stockholder" of a corporation means any person who beneficially owns, holds or has the power to vote, 10% or more of any class of securities issued by said corporation.

(cf: P.L.1977, c.237, s.1)

28. Section 5 of P.L.1991, c.201 (C.26:2H-57) is amended to read as follows:

5. a. A declarant may reaffirm or modify either a proxy directive, or an instruction directive, or both. The reaffirmation or modification shall be made in accordance with the requirements for execution of an advance directive pursuant to section 4 of this act.

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b. A declarant may revoke an advance directive, including a proxy directive, or an instruction directive, or both, by the following means:

(1) Notification, orally or in writing, to the health care representative, physician, nurse or other health care professional, or other reliable witness, or by any other act evidencing an intent to revoke the document; or

(2) Execution of a subsequent proxy directive or instruction directive, or both, in accordance with section 4 of this act.

c. Designation of the declarant's spouse as health care representative shall be revoked upon divorce or legal separation, and designation of the declarant's domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) as health care representative shall be revoked upon termination of the declarant's domestic partnership, unless otherwise specified in the advance directive.

d. An incompetent patient may suspend an advance directive, including a proxy directive, an instruction directive, or both, by any of the means stated in paragraph (1) of subsection b. of this section. An incompetent patient who has suspended an advance directive may reinstate that advance directive by oral or written notification to the health care representative, physician, nurse or other health care professional of an intent to reinstate the advance directive.

e. Reaffirmation, modification, revocation or suspension of an advance directive is effective upon communication to any person capable of transmitting the information including the health care representative, the attending physician, nurse or other health care professional responsible for the patient's care.

(cf: P.L.1991, c.201, s.5)

29. Section 6 of P.L.1991, c.201 (C.26:2H-58) is amended to read as follows:

6. a. A declarant may execute a proxy directive, pursuant to the requirements of section 4 of this act, designating a competent adult to act as his health care representative.

(1) A competent adult, including, but not limited to, a declarant's

spouse, domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), adult child, parent or other family member, friend, religious or spiritual advisor, or other person of the declarant's choosing, may be designated as a health care representative.

(2) An operator, administrator or employee of a health care institution in which the declarant is a patient or resident shall not serve as the declarant's health care representative unless the operator, administrator or employee is related to the declarant by blood, marriage, domestic partnership or adoption.

This restriction does not apply to a physician, if the physician does not serve as the patient's attending physician and the patient's health care representative at the same time.

(3) A declarant may designate one or more alternate health care representatives, listed in order of priority. In the event the primary designee is unavailable, unable or unwilling to serve as health care representative, or is disqualified from such service pursuant to this section or any other law, the next designated alternate shall serve as health care representative. In the event the primary designee subsequently becomes available and able to serve as health care representative, the primary designee may, insofar as then practicable, serve as health care representative.

(4) A declarant may direct the health care representative to consult with specified individuals, including alternate designees, family members and friends, in the course of the decision making process.

(5) A declarant shall state the limitations, if any, to be placed upon the authority of the health care representative including the limitations, if any, which may be applicable if the declarant is pregnant.

b. A declarant may execute an instruction directive, pursuant to the requirements of section 4 of this act, stating the declarant's general treatment philosophy and objectives; or the declarant's specific wishes regarding the provision, withholding or withdrawal of any form of health care, including life-sustaining treatment; or both. An instruction directive may, but need not, be executed contemporaneously with, or be attached

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to, a proxy directive.
(cf: P.L.1991, c.201, s.6)

30. Section 8 of P.L.1989, c.303 (C.26:5C-12) is amended to read as follows:

8. When consent is required for disclosure of the record of a deceased or legally incompetent person who has or is suspected of having AIDS or HIV infection, consent may be obtained:

a. From an executor, administrator of the estate, or authorized representative of the legally incompetent or deceased person;

b. From the person's spouse [or], domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), primary caretaking partner or, if none, by another member of the person's family; and

c. From the commissioner in the event that a deceased person has neither an authorized representative or next-of-kin.

(cf: P.L.1989, c.303, s.8)

31. Section 1 of P.L.1954, c.113 (C.26:6-50) is amended to read as follows:

1. Any physician licensed to practice medicine and surgery in this State may conduct a post-mortem and necroscopic examination upon the body of a deceased person if he first obtains the consent in writing of any of the following persons who shall have assumed responsibility and custody of the body for purposes of the burial: surviving spouse, domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), adult child, parent, or other next of kin, of the deceased person. In the absence of any of the foregoing named persons any other person charged by law with and who shall have assumed responsibility and custody of the body for the burial may give such consent. Where 2 or more of the abovementioned have assumed such responsibility and custody of the body for purposes of burial, the consent of 1 of such persons shall be sufficient.

(cf: P.L.1954, c.113, s.1)

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32. Section 1 of P.L.1969, c.161 (C.26:6-57) is amended to read as follows:

1. As used in this act:

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any State for storage of human bodies or parts thereof.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Donor" means an individual who makes a gift of all or part of his body.

(d) "Hospital" means a hospital licensed, accredited, or approved under the laws of any State; includes a hospital operated by the United States Government, a State, or a subdivision thereof, although not required to be licensed under State laws.

(e) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

(f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any State.

(h) "State" includes any State, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(i) "Transplant recovery specialist" means a medical professional licensed by this or another State or technician trained by an organ procurement organization in accordance with federal standards pursuant to 42 U.S.C.274(b) and nationally accredited standards for human body part removal.

(j) "Organ procurement organization" means an organization which is qualified by the Secretary of Health and Human Services pursuant to 42 U.S.C.273(b).

(k) "Domestic partner" means a domestic partner as defined in section

3 of P.L. , c. (C.)(pending before the Legislature as this bill).
(cf: P.L.1995, c.257, s.2)

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33. Section 2 of P.L.1969, c.161 (C.26:6-58) is amended to read as follows:

2. (a) Any individual of sound mind and 18 years of age or more may give all or any part of his body for any purpose specified in section 3, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 3:

(1) The spouse or domestic partner,

(2) An adult son or daughter,

(3) Either parent,

(4) An adult brother or sister,

(5) A guardian of the person of the decedent at the time of his death,

(6) Any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d).

(cf: P.L.1969, c.161, s.2)

34. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read as follows:

1. a. At or around the time of death of a patient in a hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital shall notify its designated organ procurement organization of the patient's death. If

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the patient has a validly executed donor card, donor designation on a driver's license, advance directive pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or registration with a Statewide organ and tissue donor registry, the organ procurement organization representative or the hospital's designated requestor shall attempt to notify a person listed in this subsection of the gift. If no document of gift is known to the organ procurement organization representative or the designated requestor, one of those two individuals shall ask the persons listed in this subsection whether the decedent had a validly executed document of gift. If there is no evidence of an anatomical gift or actual notice of contrary indications by the decedent, the organ procurement organization representative or the designated requestor shall attempt to notify a person listed in this subsection of the option to donate organs or tissues. Consent need only be obtained from an available person in the highest priority class applicable, but an anatomical gift shall be barred by actual notice of opposition by a member of the same or a prior class. If no available member of a class will make a decision, the organ procurement organization representative or the designated requestor shall approach a member of the next class.

The classes in order of priority are:

- (1) the spouse or domestic partner,
- (2) an adult son or daughter,
- (3) either parent,
- (4) an adult brother or sister,
- (5) a guardian of the person of the decedent at the time of the decedent's death, or
- (6) any other person authorized or under the obligation to dispose of the body.

For the purposes of this section, a person is available if that person can be approached within a time period compatible with effecting an anatomical gift.

b. The person in charge of the hospital or that person's designated representative shall indicate in the medical record of the decedent whether or not consent was granted, the name of the person granting or

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refusing the consent, and that person's relationship to the decedent.

c. A gift made pursuant to the request required by this act shall be executed pursuant to the applicable provisions of P.L.1969, c.161 (C.26:6-57 et seq.).

d. A person who acts in good faith in accordance with the provisions of this act is not liable for any damages in any civil action or subject to prosecution in any criminal proceeding for any act or omission of the person.

e. If the decedent is deemed an unsuitable candidate for donation, an explanatory notation shall be made part of the medical record of the decedent.

(cf: P.L.2001, c.87, s.1)

35. Section 7 of P.L.1969, c.161 (C.26:6-63) is amended to read as follows:

7. (a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services, and after it has served its scientific purposes, provide for its disposal by burial or cremation. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse or domestic partner, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this act or the anatomical gift laws of another State or foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this act are subject to the laws of this State

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prescribing powers and duties with respect to autopsies.
(cf: P.L.1969, c.161, s.7)

36. R.S.54:34-1 is amended to read as follows:

54:34-1. Except as provided in section 54:34-4 of this Title, a tax shall be and is hereby imposed at the rates set forth in section 54:34-2 of this Title upon the transfer of property, real or personal, of the value of \$500.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to or for the use of any transferee, distributee or beneficiary in the following cases:

a. Where real or tangible personal property situated in this State or intangible personal property wherever situated is transferred by will or by the intestate laws of this State from a resident of this State dying seized or possessed thereof.

b. Where real or tangible personal property within this State of a decedent not a resident of this State at the time of his death is transferred by will or intestate law.

c. Where real or tangible personal property within this State of a resident of this State or intangible personal property wherever situate of a resident of this State or real or tangible personal property within this State of a nonresident, is transferred by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death.

A transfer by deed, grant, bargain, sale or gift made without adequate valuable consideration and within three years prior to the death of the grantor, vendor or donor of a material part of his estate or in the nature of a final disposition or distribution thereof, shall, in the absence of proof to the contrary, be deemed to have been made in contemplation of death within the meaning of subsection c. of this section; but no such transfer made prior to such three-year period shall be deemed or held to have been made in contemplation of death.

d. Where by transfer of a resident decedent of real or tangible personal property within this State or intangible property wherever situate, or by transfer of a nonresident decedent of real or tangible

personal property within this State, a transferee, distributee or beneficiary comes into the possession or enjoyment therein of:

(1) An estate in expectancy of any kind or character which is contingent or defeasible, transferred by an instrument taking effect on or after July 4, 1909; or

(2) Property transferred pursuant to a power of appointment contained in an instrument taking effect on or after July 4, 1909.

e. When a decedent appoints or names one or more executors or trustees and bequeaths or devises property to him or them in lieu of commissions or allowances, the transfer of which property would otherwise be taxable, or appoints him or them his residuary legatee or legatees, and the bequest, devise or residuary legacy exceeds what would be reasonable compensation for his or their services, such excess shall be deemed a transfer liable to tax. The Superior Court having jurisdiction in the case, shall determine what is a reasonable compensation.

f. The right of the surviving joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of real or personal property held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, excluding, however, the right of a spouse, as a surviving joint tenant with his or her deceased spouse, or the right of a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), as a surviving joint tenant with that person's deceased domestic partner, to the immediate ownership or possession and enjoyment of a membership certificate or stock in a cooperative housing corporation, the ownership of which entitles such member or stockholder to occupy real estate for dwelling purposes as the principal residence of the decedent and spouse or domestic partner, as applicable, shall upon the death of one of such persons, be deemed a transfer taxable in the same manner as though such property had belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed by his will to the surviving joint tenant or joint tenants, person or persons, excepting therefrom such part of the property as such survivor or survivors may prove to the

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satisfaction of the Director of the Division of Taxation to have originally belonged to him or them and never to have belonged to the decedent.

In the case of a nonresident decedent, subsection f. of this section shall apply only to real or tangible personal property within this State.

(cf: P.L.1991, c.91, s.510)

37. R.S.54:34-2 is amended to read as follows:

54:34-2. a. (1) The transfer of property to a husband or wife, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), of a decedent shall be taxed at the following rates:

For transfers made through December 31, 1984:

On any amount in excess of \$15,000.00, up to \$50,000.00	2%
On any amount in excess of \$50,000.00, up to \$100,000.00	3%
On any amount in excess of \$100,000.00, up to \$150,000.00	%
On any amount in excess of \$150,000.00, up to \$200,000.00	5%
On any amount in excess of \$200,000.00, up to \$300,000.00	6%
On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ...	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made on or after January 1, 1985 there shall be no tax imposed under this paragraph.

(2) The transfer of property to a father, mother, grandparent, child or children of a decedent, or to any child or children adopted by the decedent in conformity with the laws of this State, or of any of the United States or of a foreign country, or the issue of any child or legally adopted child of a decedent, shall be taxed at the following rates:

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For transfers through June 30, 1985:

On any amount in excess of \$15,000.00, up to \$50,000.00	2%
On any amount in excess of \$50,000.00, up to \$100,000.00	3%
On any amount in excess of \$100,000.00, up to \$150,000.00	4%
On any amount in excess of \$150,000.00, up to \$200,000.00	5%
On any amount in excess of \$200,000.00, up to \$300,000.00	6%
On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 .	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 .	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made from July 1, 1985 through June 30, 1986: On any amount in excess of \$50,000.00, up to \$100,000.00

On any amount in excess of \$100,000.00, up to \$150,000.00	4%
On any amount in excess of \$150,000.00, up to \$200,000.00	5%
On any amount in excess of \$200,000.00, up to \$300,000.00	6%
On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made from July 1, 1986 through June 30, 1987: On any amount in excess of \$150,000.00, up to \$200,000.00

5%	
On any amount in excess of \$200,000.00, up to \$300,000.00	6%

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On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 .	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made from July 1, 1987 through June 30, 1988: On any amount in excess of \$250,000.00, up to \$300,000.00	6%
On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00 ...	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 .	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 .	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00 ..	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00 ..	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00 ..	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made on or after July 1, 1988 there shall be no tax imposed under this subsection.

b. (Deleted by amendment.)

c. The transfer of property to a brother or sister of a decedent, wife or widow of a son of a decedent, or husband or widower of a daughter of a decedent shall be taxed at the following rates:

(1) For transfers through June 30, 1988:

On any amount up to \$1,100,000.00	11%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..	13%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..	14%
On any amount in excess of \$1,700,000.00	16%

(2) For transfers made on or after July 1, 1988:

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On any amount in excess of \$25,000.00, up to \$1,100,000.00 11%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00 ..13%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00 ..14%
On any amount in excess of \$1,700,000.00 16%

d. The transfer of property to every other transferee, distributee or beneficiary not hereinbefore classified shall be taxed at the following rates:

On any amount up to \$700,000.00 15%
On any amount in excess of \$700,000.00 16%

For every purpose of this subtitle all persons, including the decedent, shall be deemed to have been born in lawful wedlock and this provision shall apply to the estate of every decedent whether said decedent died before March 25, 1935, or shall die thereafter, but it shall not entitle any person to a refund of any tax paid before the aforementioned date.

(cf: P.L.1985, c.57, s.1)

38. R.S.54:34-4 is amended to read as follows:

54:34-4. The following transfers of property shall be exempt from taxation:

a. Property passing to or for the use of the State of New Jersey, or to or for the use of a municipal corporation within the State or other political subdivision thereof, for exclusively public purposes.

b. Property passing to a beneficiary or beneficiaries having any present or future, vested, contingent or defeasible interest under any trust deed or agreement heretofore or hereafter executed by a resident or nonresident decedent, to the extent that the trust fund results from the proceeds of contracts of insurance heretofore or hereafter in force, insuring the life of such decedent, and paid or payable, at or after the death of such decedent, to the trustee or trustees under such trust deed or agreement.

c. Property passing to (i) a trustee or trustees of any trust deed or agreement heretofore or hereafter executed or (ii) to a trustee or trustees of a trust created by the will of a decedent, by virtue of any contract of insurance heretofore or hereafter in force insuring the life of a resident or

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nonresident decedent and the proceeds of which are paid or payable at or after the death of such decedent to such trustee or trustees for the benefit of a beneficiary or beneficiaries having any present or future, vested, contingent or defeasible interest under such trust deed, agreement or will.

d. That part of the estate of any decedent which passes to, for the use of or in trust for any educational institution, church, hospital, orphan asylum, public library or Bible and tract society or to, for the use of or in trust for any institution or organization organized and operated exclusively for religious, charitable, benevolent, scientific, literary or educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation; provided, that this exemption shall not extend to transfers of property to such educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal, and like exemption of transfers of property for the benefit of such institutions and organizations of this State.

e. That part of the estate of any decedent who has heretofore died, or may hereafter die, received, either heretofore or hereafter, by the legal representatives of such decedent, whether directly from the United States, or through any intervening estate or estates, by reason of any war risk insurance certificate or policy, either term or converted, or any adjusted service certificate, issued by the United States. Nothing contained in this subsection e. shall entitle any person to a refund of any tax heretofore paid on the transfer of property of the nature aforementioned; and provided further, that the exemption provided for in this subsection e. shall not extend to that part of the estate of any decedent composed of property of the nature aforementioned, when such property was received by the decedent before death.

f. The proceeds of any contract of insurance heretofore or hereafter in force insuring the life of a resident or nonresident decedent paid or payable at or after the death of such decedent to any beneficiary or beneficiaries other than the estate or the executor or administrator of such decedent.

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g. Any transfer, relinquishment, surrender or exercise at any time or times by a resident or nonresident of any right to nominate or change the beneficiary or beneficiaries of any contract of insurance heretofore or hereafter in force insuring the life of such resident or nonresident irrespective of whether such transfer, relinquishment, surrender or exercise of such right took place or whether the proceeds of such policy were paid or payable, before or after the taking effect of this act.

h. The value of any pension, annuity, retirement allowance, return of contributions, or benefit payable by the Government of the United States pursuant to the Civil Service Retirement Act to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent.

i. The value of any annuity payable by the Government of the United States pursuant to the Retired Serviceman's Family Protection Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent.

j. The value of any pension, annuity, retirement allowance or return of contributions, regardless of the source, which is a direct result of the decedent's employment under a qualified plan as defined by section 401(a), (b) and (c) or 2039(c) of the Internal Revenue Code, payable to a surviving spouse, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), and not otherwise exempted pursuant to this section or other law of the State of New Jersey. (cf: P.L.1981, c.152, s.1)

39. N.J.S.54A:1-2 is amended to read as follows:

54A:1-2. As used in this act, unless the context clearly indicates otherwise, the following words and phrases shall have the following meaning:

a. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

b. "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

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c. "Excludable income" shall be limited to those payments set forth in chapter 6 hereunder.

d. "Gross income" shall include that set forth in chapter 5 hereunder.

e. "Dependent" means a spouse or child, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), or any individual related to the taxpayer and who is a dependent pursuant to the provisions of the Internal Revenue Code during a taxable year.

f. "Disabled" means total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness. For purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

g. "Medical expenses" means nonreimbursed payments for physicians, dental and other medical fees, hospital care, nursing care, medicines and drugs, prosthetic devices, X-rays and other diagnostic services conducted by or directed by a physician or dentist. In addition, medical expenses may also include amounts paid for transportation primarily for and essential to medical care and insurance (including amounts paid as premiums under part B of Title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care.

h. Partnership and partner. The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

i. Blank.

j. Blank.

k. "Taxable year" means the calendar or fiscal accounting period for which a tax is payable under this act.

l. "Taxpayer" means any individual, estate or trust required to report or to pay taxes, interest and penalties under this act, or whose income in whole or in part is subject to the tax imposed by this act.

m. "Resident taxpayer" means an individual:

1. Who is domiciled in this State, unless he maintains no permanent place of abode in this State, maintains a permanent place of abode elsewhere, and spends in the aggregate no more than 30 days of the taxable year in this State; or

2. Who is not domiciled in this State but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless such individual is in the Armed Forces of the United States.

n. "Nonresident taxpayer" means a taxpayer who is not a resident.

o. Resident estate or trust. A resident estate or trust means:

(1) The estate of a decedent who at his death was domiciled in this State,

(2) A trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this State, or

(3) A trust, or portion of a trust, consisting of the property of:

(a) A person domiciled in this State at the time such property was transferred to the trust, if such trust or portion of a trust was then irrevocable, or if it was then revocable and has not subsequently become irrevocable; or

(b) A person domiciled in this State at the time such trust, or portion of a trust, became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

For the purposes of the foregoing, a trust or portion of a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes such trust or portion of a trust, and a trust or portion of a trust becomes irrevocable when the possibility that such power may be exercised has been terminated.

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p. Nonresident estate or trust. A nonresident estate or trust means an estate or trust which is not a resident.

q. Unless the context in which it occurs requires otherwise, the term "act" or "this act" shall mean the New Jersey Gross Income Tax Act, Title 54A of the New Jersey Statutes.

(cf: N.J.S.54A:1-2)

40. N.J.S.54A:3-1 is amended to read as follows:

54A:3-1. Personal exemptions and deductions. Each taxpayer shall be allowed personal exemptions and deductions against his gross income as follows:

(a) Taxpayer. Each taxpayer shall be allowed a personal exemption of \$1,000.00 which may be taken as a deduction from his New Jersey gross income.

(b) Additional exemptions. In addition to the personal exemptions allowed in (a), the following additional personal exemptions shall be allowed as a deduction from gross income:

1. For the taxpayer's spouse, or domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), who does not file separately - \$1,000.00.

2. For each dependent who qualifies as a dependent of the taxpayer during the taxable year for federal income tax purposes - \$1,500.00.

3. Taxpayer 65 years of age or over at the close of the taxable year - \$1,000.00.

4. Taxpayer's spouse 65 years of age or over at the close of the taxable year - \$1,000.00.

5. Blind or disabled taxpayer - \$1,000.00.

6. Blind or disabled spouse - \$1,000.00.

(c) Special Rule. The personal exemptions allowed under this section shall be limited to that percentage which the total number of months within a taxpayer's taxable year under this act bears to 12. For this purpose 15 days or more shall constitute a month.

(d) (Deleted by amendment, P.L.1993, c.178).

(e) Nonresidents. For taxable years to which a certification pursuant

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to section 3 of P.L.1993, c.320 (C.54A:2-1.2) applies, a nonresident taxpayer shall be allowed the same deduction for personal exemptions as a resident taxpayer. However, if (1) the nonresident taxpayer's gross income which is subject to tax under this act is exceeded by (2) the gross income which the nonresident taxpayer would be required to report under this act if the taxpayer were a resident by more than \$100.00, the taxpayer's deduction for personal exemptions shall be limited by the percentage which (1) is to (2).

(cf: P.L.1993, c.320, s.1)

41. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

2. As used in this act:

(a) The term "State" means the State of New Jersey.

(b) The term "commission" means the State Health Benefits Commission, created by section 3 of this act.

(c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency

basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) (1) The term "dependents" means an employee's spouse, or an employee's domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and foster children provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, domestic partner or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses or domestic partners of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary and subject to the provisions of paragraph (3) of this subsection, for the purposes of an employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term "dependents" means an employee's spouse and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child

relationship. "Children" shall include stepchildren, legally adopted children and foster children provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses of retired persons who are otherwise eligible for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(3) An employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34) may adopt a resolution providing that the term "dependents" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential

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center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L. 89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

(cf: P.L.1997, c.150, s.25)

42. Section 6 of L.1954, c.84 (C.43:15A-6) is amended to read as follows:

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or on behalf of the member, standing to the credit of the member's individual

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account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

f. "Parent" shall mean the parent of a member who was receiving at least 1/2 of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

g. ["Widower" means] (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

h. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 (C.43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey,"

hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of

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active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or

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midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this paragraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982,

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who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United

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States, Congress or the Governor, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation "Restore Hope" in Somalia, commencing on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or the Congress, whichever date is earliest, and terminating on March 31, 1994, or the date of termination as proclaimed by the President of the United States or the Congress, whichever date is latest, who served for at least 14 days, continuously or in the aggregate, in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation during the specified period; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(19) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, commencing on or after November 20, 1995 or December 20, 1996, as the case may be, and terminating on December 20, 1996 or on such date as the United States Secretary of Defense may designate, as the case may be, who served in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is

declared by the United States Department of Defense to be eligible for federal veterans' benefits.

q. ["Widow" means] (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

r. "Compensation" means the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for

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performing temporary or extracurricular duties beyond the regular workday or the regular work year. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(cf: P.L.2001, c.128, s.2)

¹[43. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

1. As used in this act:

(1) "Retirement system" or "system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) (a) "Policeman" shall mean a permanent, full-time employee of a law enforcement unit as defined in section 2 of P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer or trooper of the Division of State Police whose position is covered by the State Police Retirement System, whose primary duties include the investigation, apprehension or detention of persons suspected or convicted of violating the criminal laws of the State and who:

(i) is authorized to carry a firearm while engaged in the actual performance of his official duties;

(ii) has police powers;

(iii) is required to complete successfully the training requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable training requirements as determined by the board of trustees; and

(iv) is subject to the physical and mental fitness requirements applicable to the position of municipal police officer established by an agency authorized to establish these requirements on a Statewide basis, or comparable physical and mental fitness requirements as determined by the board of trustees.

The term shall also include an administrative or supervisory employee of a law enforcement unit or the State whose duties include general or direct supervision of employees engaged in investigation, apprehension or detention activities or training responsibility for these employees and a requirement for engagement in investigation, apprehension or detention

activities if necessary, and who is authorized to carry a firearm while in the actual performance of his official duties and has police powers.

(b) "Fireman" shall mean a permanent, full-time employee of a firefighting unit whose primary duties include the control and extinguishment of fires and who is subject to the training and physical and mental fitness requirements applicable to the position of municipal firefighter established by an agency authorized to establish these requirements on a Statewide basis, or comparable training and physical and mental fitness requirements as determined by the board of trustees. The term shall also include an administrative or supervisory employee of a firefighting unit whose duties include general or direct supervision of employees engaged in fire control and extinguishment activities or training responsibility for these employees and a requirement for engagement in fire control and extinguishment activities if necessary. As used in this paragraph, "firefighting unit" shall mean a municipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system pursuant to this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall

bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the three years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension

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computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, provided that the member died in active service as a result of an accident met in the actual performance of duty at some definite time and place, and the death was not the result of the member's willful misconduct, or (d) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) ["Widower" shall mean] (a) "Widower," for employees of the State, means the man to whom a member or retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), on the date of her death and who has not since remarried or established a domestic partnership.

(b) Subject to the provisions of paragraph (c) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member or retirant was married on the date of

her death and who has not remarried.

(c) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(24) ["Widow" shall mean] (a) "Widow," for employees of the State, means the woman to whom a member or retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), on the date of his death and who has not since remarried or established a domestic partnership.

(b) Subject to the provisions of paragraph (c) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member or retirant was married on the date of his death and who has not remarried.

(c) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his retirement or death.

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(29) (Deleted by amendment, P.L.1992, c.78).

(30) (Deleted by amendment, P.L.1992, c.78).

(31) (a) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), of a member.

(b) Subject to the provisions of paragraph (c) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(c) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(cf: P.L.1999, c.428, s.1)]¹

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¹43. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

1. As used in this act:

(1) "Retirement system" or "system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) (a) "Policeman" shall mean a permanent, full-time employee of a law enforcement unit as defined in section 2 of P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer or trooper of the Division of State Police whose position is covered by the State Police Retirement System, whose primary duties include the investigation, apprehension or detention of persons suspected or convicted of violating the criminal laws of the State and who:

(i) is authorized to carry a firearm while engaged in the actual performance of his official duties;

(ii) has police powers;

(iii) is required to complete successfully the training requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable training requirements as determined by the board of trustees; and

(iv) is subject to the physical and mental fitness requirements applicable to the position of municipal police officer established by an agency authorized to establish these requirements on a Statewide basis, or comparable physical and mental fitness requirements as determined by the board of trustees.

The term shall also include an administrative or supervisory employee of a law enforcement unit or the State whose duties include general or direct supervision of employees engaged in investigation, apprehension or detention activities or training responsibility for these employees and a requirement for engagement in investigation, apprehension or detention activities if necessary, and who is authorized to carry a firearm while in the actual performance of his official duties and has police powers.

(b) "Fireman" shall mean a permanent, full-time employee of a firefighting unit whose primary duties include the control and extinguishment of fires and who is subject to the training and physical

and mental fitness requirements applicable to the position of municipal firefighter established by an agency authorized to establish these requirements on a Statewide basis, or comparable training and physical and mental fitness requirements as determined by the board of trustees. The term shall also include an administrative or supervisory employee of a firefighting unit whose duties include general or direct supervision of employees engaged in fire control and extinguishment activities or training responsibility for these employees and a requirement for engagement in fire control and extinguishment activities if necessary. As used in this paragraph, "firefighting unit" shall mean a municipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system pursuant to this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

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(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the three years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

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(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, provided that the member died in active service as a result of an accident met in the actual performance of duty at some definite time and place, and the death was not the result of the member's willful misconduct, or (d) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) ["Widower" shall mean] (a) "Widower," for employees of the State, means the man to whom a member or retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), on the date of her death and who has not since remarried or established a domestic partnership.

In the event of the payment of accidental death benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction concerning remarriage or establishment of a domestic partnership shall be waived.

(b) Subject to the provisions of paragraph (c) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member or retirant was married on the date of her death and who has not remarried.

(c) A public employer other than the State may adopt a resolution

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providing that the term "widower" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(24) ["Widow" shall mean] (a) "Widow," for employees of the State, means the woman to whom a member or retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), on the date of his death and who has not since remarried or established a domestic partnership.

In the event of the payment of accidental death benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10), the restriction concerning remarriage or establishment of a domestic partnership shall be waived.

(b) Subject to the provisions of paragraph (c) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member or retirant was married on the date of his death and who has not remarried.

(c) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his

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retirement or death.

(29) (Deleted by amendment, P.L.1992, c.78).

(30) (Deleted by amendment, P.L.1992, c.78).

(31) (a) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), of a member.

(b) Subject to the provisions of paragraph (c) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(c) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (b) of this subsection shall include domestic partners as provided in paragraph (a) of this subsection.¹

(cf: P.L.2003, c.181, s.1)

44. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read as follows:

3. As used in this act:

a. "Accumulated deductions" means the sum of all amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity saving fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this amendatory and supplementary act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity computed on the basis of such mortality tables recommended by the actuary as the State House Commission adopts with regular interest. d.

"Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Child" means a deceased member's or retirant's unmarried child who is either (a) under the age of 18; (b) of any age who, at the time of

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the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board; or (c) under the age of 21 and is attending school full time.

f. "Compensation" means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work schedule.

g. "Final salary" means the annual salary received by the member at the time of his retirement or death.

h. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

i. "Medical board" means the board of physicians provided for in section 29 of this act.

j. "Member" means the Chief Justice and associate justices of the Supreme Court, judges of the Superior Court and tax court of the State of New Jersey required to be enrolled in the retirement system established by this act.

For purposes of this act, the person holding the office of standing master by appointment pursuant to N.J.S.2A:1-7 shall have the same privileges and obligations under this act as a judge of a Superior Court.

k. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

l. "Pension" means payment for life derived from contributions by the State.

m. "Pension reserve" means the present value of all payments to be

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made on account of any pension or benefit in lieu of a pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the State House Commission with regular interest.

n. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the State House Commission and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the commission shall not set the average percentage rate of increase applied to salaries below 6%. o. "Retirant" means any former member receiving a pension or retirement allowance as provided by this act.

p. "Retirement allowance" means the pension plus the annuity.

q. "Retirement system" or "system" herein refers to the "Judicial Retirement System of New Jersey," which is the corporate name of the arrangement for the payment of pensions, retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Service" means public service rendered for which credit is allowed on the basis of contributions made by the State.

s. "Several courts" means the Supreme, Superior, and tax courts.

t. "Widow" means the woman to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)~~(pending before the Legislature as this bill)~~, at least four years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death. The eligibility of such a widow to receive a survivor's benefit will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's or the retirant's death. In the event of accidental death the four-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and

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appropriate to the particular situation.

u. "Widower" means the man to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), at least four years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death. The eligibility of such a widower to receive a survivor's benefit will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widower subsequent to the member's or retirant's death. In the event of accidental death the four-year qualification shall be waived.

v. "Spouse" means the husband or wife, or domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), of a member or retirant.

(cf: P.L.1992, c.125, s.4)

45. N.J.S.18A:66-2 is amended to read as follows:

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or in behalf of the member, including interest credited to January 1, 1956, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. "Compensation" means the contractual salary, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year.

e. "Employer" means the State, the board of education or any

educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who had established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with N.J.S.18A:66-29.

m. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on

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investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any persons under contract or engagement to perform one or more of these functions. It shall also mean any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in this subsection. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article, including the several funds placed under said system. By that name all its business shall be transacted, its

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funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

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(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided; and provided further that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran, whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination

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is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict, on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the

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President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation "Restore Hope" in Somalia, commencing on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or the Congress, whichever date is earliest, and terminating on March 31, 1994, or the date of termination as proclaimed by the President of the United States or the

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Congress, whichever date is latest, who served for at least 14 days, continuously or in the aggregate, in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation during the specified period; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(19) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, commencing on or after November 20, 1995 or December 20, 1996, as the case may be, and terminating on December 20, 1996 or on such date as the United States Secretary of Defense may designate, as the case may be, who served in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. ["Widower" means] (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least one-half of his support from the member

in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

u. ["Widow" means] (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection,

"widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

v. "Parent" means the parent of a member who was receiving at least one-half of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in N.J.S.18A:66-56.

x. (1) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), of a member.

(2) Subject to the provisions of paragraph (1) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(3) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

(cf: P.L.2001, c.128, s.1)

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¹[46. Section 3 of P.L.1989, c.65 (C.53:5A-3) is amended to read as follows:

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the

death of the member.

i. "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

j. "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, non-commissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

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s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and of the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent Fund" shall be transferred to the retirement system established by this act.

t. "Surviving spouse" means the person to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of or establishment of a domestic partnership by the surviving spouse subsequent to the member's or the retirant's death.

u. "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday or shift.

(cf: P.L.1992, c.125, s.16)]¹

¹46. Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read as follows:

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's

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aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

j. "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance

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allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, non-commissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and of the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent

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Fund" shall be transferred to the retirement system established by this act.

t. "Surviving spouse" means the person to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill), on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of or establishment of a domestic partnership by the surviving spouse subsequent to the member's or the retirant's death, except that in the event of the payment of accidental death benefits, pursuant to section 14 of P.L.1965, c.89 (C.53:5A-14), the dependency of such a surviving spouse or domestic partner will not be considered terminated by the marriage of or establishment of a domestic partnership by the surviving spouse subsequent to the member's death.

u. "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday or shift.¹

(cf: P.L.2003, c.181, s.3)

47. (New section) A hospital service corporation that provides hospital or medical expense benefits under a contract that is delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to those contracts in which the hospital service

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corporation has reserved the right to change the premium.

48. (New section) A medical service corporation that provides hospital or medical expense benefits under a contract that is delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to those contracts in which the medical service corporation has reserved the right to change the premium.

49. (New section) A health service corporation that provides hospital or medical expense benefits under a contract that is delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to those contracts in which the health service corporation has reserved the right to change the premium.

50. (New section) An individual health insurer that provides hospital or medical expense benefits under a policy that is delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available,

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shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to those policies in which the insurer has reserved the right to change the premium.

51. (New section) A group health insurer that provides hospital or medical expense benefits under a policy that is delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to those policies in which the insurer has reserved the right to change the premium.

52. (New section) Every health maintenance organization contract that is delivered, issued, executed or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to an enrollee for an enrollee's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

The provisions of this section shall apply to contracts in which the health maintenance organization has reserved the right to change the schedule of charges.

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53. (New section) Every individual health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this State on or after the effective date of ¹[this act] P.L. , c. (C.) (pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

The provisions of this section shall apply to all policies or contracts in which the carrier has reserved the right to change the premium.

54. (New section) Every small employer health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this State on or after the effective date of ¹[this act] P.L. , c. (C.) (pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

The provisions of this section shall apply to all policies or contracts in which the carrier has reserved the right to change the premium.

55. (New section) Every dental service corporation contract that is delivered, issued, executed or renewed in this State pursuant to P.L.1968, c.305 (C.17:48C-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to a covered person for a covered person's domestic partner. For the purposes of this section, "domestic partner"

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means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to all contracts in which the dental service corporation has reserved the right to change the premium.

56. (New section) Every dental plan organization contract that is delivered, issued, executed or renewed in this State pursuant to P.L.1979, c.478 (C.17:48D-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of ¹[this act] P.L. , c. (C.)(pending before the Legislature as this bill)¹, under which dependent coverage is available, shall offer dependent coverage to an enrollee for an enrollee's domestic partner. For the purposes of this section, "domestic partner" means a domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

This section shall apply to all contracts in which the dental plan organization has reserved the right to change the premium.

57. (New section) ¹a.¹ An employer that provides a health benefits plan as defined in section 2 of P.L.1997, c.192 (C.26:2S-2) to its employees and their dependents in this State may require that an employee contribute a portion or the full amount of the cost of dependent coverage under the plan for the employee's domestic partner as defined in section 3 of P.L. , c. (C.)(pending before the Legislature as this bill).

¹b. Nothing in P.L. , c. (C.)(pending before the Legislature as this bill) shall be construed to require an employer to provide dependent coverage for an employee's domestic partner.

c. Notwithstanding any other provisions of law to the contrary, the provisions of subsections a. and b. of this section shall not be deemed to be an unlawful discrimination under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).¹

²58. (New section). a. The provisions of sections 41 through 56, inclusive, of P.L. , c. (pending before the Legislature as this bill) shall

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only apply in the case of two persons who are of the same sex and have established a domestic partnership pursuant to section 4 of P.L. , c. (C.)(pending before the Legislature as this bill).

b. Notwithstanding any other provisions of law to the contrary, the provisions of subsection a. of this section shall not be deemed to be an unlawful discrimination under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).²

²[58.] 59.² a. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of sections 1 through 10 and 13 through 35 of this act.

b. The Commissioner of Banking and Insurance, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of sections 47 through 52, 55 and 56 of this act.

c. The New Jersey Individual Health Coverage Program Board, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of section 53 of this act.

d. The New Jersey Small Employer Health Benefits Program Board, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of section 54 of this act.

²[59.] 60.² This act shall take effect on the 180th day after enactment, except that the Commissioners of Health and Senior Services and Banking and Insurance may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act; and the provisions of sections 47 through 56 shall apply to policies or contracts issued or renewed on or after the effective date.